



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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DA 02-1628
July 15, 2002

AUCTION NO. 46

REVISED LICENSE INVENTORY AND AUCTION START DATE

COMMENT SOUGHT ON REVISIONS TO AUCTION PROCEDURES

Report No. AUC-02-46-B (Auction No. 46)

By this Public Notice, the Wireless Telecommunications Bureau (“Bureau”) revises the license inventory and starting date for Auction No. 46. This Public Notice also seeks comment on revisions to the Bureau’s proposed procedures for Auction No. 46. With the exception of the changes described in this Public Notice, the Bureau’s proposed procedures for Auction No. 46 remain unchanged from the *Auction No. 46 Comment Public Notice* released on May 24, 2002.¹

Revised Auction No. 46 License Inventory

The *Auction No. 46 Comment Public Notice* announced that Auction No. 46 would include licenses in the paired 1392-1395 and 1432-1435 MHz bands and in the unpaired 1390-1392 MHz, 1670-1675 MHz, and the 2385-2390 MHz bands.² The Auction No. 46 license inventory has been revised and only the 1670-1675 MHz band nationwide license will be offered in Auction No. 46. Dates for the auction of licenses in the paired 1392-1395 and 1432-1435 MHz bands and the unpaired 1390-1392 MHz and 2385-2390 MHz bands will be announced by separate public notice.

New Auction Start Date

Auction No. 46 will begin on October 30, 2002. A complete list of all relevant dates for the auction will be provided in a subsequent public notice.

¹ 1392-1395 and 1432-1435 MHz, 1390-1392 MHz, 1670-1675 MHz, and 2385-2390 MHz Bands Auction Scheduled for September 18, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues, *Public Notice*, DA 02-1257 (rel. May 24, 2002) (“*Auction No. 46 Comment Public Notice*”).

² *Id.* at 1.

Activity Rules

In order to ensure that the auction closes within a reasonable period of time, the Commission establishes activity rules that require bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than wait until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or must use an activity rule waiver (if any remain).

In the *Auction No. 46 Comment Public Notice* the Bureau proposed to divide Auction No. 46 into three stages, each characterized by an increased activity requirement.³ However, in light of the reduction in the number of licenses that will be available in Auction No. 46, we propose a single stage auction with the following activity requirement: in each round, a bidder desiring to maintain eligibility to participate in the auction is required to be active on one hundred (100) percent of its bidding eligibility. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain; if a bidder has no activity rule waivers remaining, its eligibility will be reduced, effectively eliminating the bidder from the auction. We seek comment on this proposal.

Activity Rule Waivers and Reducing Eligibility

In the *Auction No. 46 Comment Public Notice* the Bureau proposed that each bidder be provided with five activity rule waivers.⁴ The Bureau believes that in a single stage auction of one license, it will not be necessary to allow five activity rule waivers. Therefore we propose to limit each bidder to two activity rule waivers that may be used at the bidder's discretion during the course of the auction, as described in the *Auction No. 46 Comment Public Notice*.⁵ We seek comment on this proposal.

Information Regarding Bid Withdrawal

In the *Auction No. 46 Comment Public Notice* the Bureau proposed to limit each bidder to withdrawing standing high bids in no more than two rounds during the course of the auction.⁶ As noted in the *Auction No. 46 Comment Public Notice*, the Commission has previously explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction.⁷ In Auction No. 46, however, aggregation of licenses will not be possible because only a single license will be auctioned. Accordingly, for this auction, we propose that bidders not be permitted to withdraw bids in any round. We seek comment on this proposal.

Conclusion

Comments are due on or before July 22, 2002, and reply comments are due on or before July 29, 2002. Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureau requires that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: au46@fcc.gov.⁸ The electronic mail containing the

³ *Auction No. 46 Comment Public Notice* at 4-5.

⁴ *Id.* at 5

⁵ *Id.*

⁶ *Id.* at 10

⁷ *Id.*; Amendment of Part 1 of the Commission's Rules — Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, WT Docket No. 97-82, ET Docket No. 94-32, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374, 460, ¶ 150 (1998) (“*Part 1 Third Report and Order*”).

⁸ Comments and reply comments in response to this Public Notice may **not** be filed using the Commission's

comments or reply comments must include a subject or caption referring to Auction No. 46 Comments. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW, Washington, DC 20554.

In addition, the Bureau requests that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁹ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.¹⁰ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission’s rules.¹¹

For further information concerning this proceeding, contact the Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, as listed below:

For legal questions: Francis Gutierrez (202) 418-0660

For general auction questions: Lyle Ishida (202) 418-0660
Lisa Stover (717) 338-2888

For service rule questions: Brian Marenco (202) 418-0838

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Electronic Comment Filing System, which is used for the Commission’s docketed rule making proceedings.

⁹ 47 C.F.R. §§ 1.1200(a), 1.1206.

¹⁰ 47 C.F.R. § 1.1206(b).

¹¹ *Id.*